

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

**DAVID MIMS and DONNA MIMS,** )  
   ) )  
**Plaintiffs,**                     ) )  
                                       ) **Case No. 1:12-CV-00244-VEH**  
**v.**                                 ) )  
                                       ) **UNOPPOSED MOTION**  
**WAL-MART STORES, INC.;**       ) )  
**BLITZ U.S.A., INC.; et al.,**    ) )  
                                       ) )  
**Defendants.**                    ) )

**WAL-MART STORES, INC.'S MOTION TO CONTINUE  
SCHEDULING CONFERENCE**

COMES NOW, Wal-Mart Stores, Inc. ("Wal-Mart") and files this motion to continue the scheduling conference currently set in this matter for Tuesday, December 11, 2012. Wal-Mart has conferred with counsel for Plaintiffs and Defendants Kinderhook Capital Fund II, L.P. and Kinderhook Industries, LLC, who have indicated they will not oppose the instant motion. In support of this motion, Wal-Mart states as follows:

**ARGUMENT**

1. On November 28, 2012, an Order was entered setting a Scheduling Conference in this matter for December 11, 2012.

2. Counsel for Wal-Mart in this matter also serves as counsel of record for Wal-Mart in a case pending in Mississippi and styled:

*Karen Gueniot-Kornegay, Individually, and on Behalf of All of the Wrongful Death Beneficiaries of Matthew Dylan Kornegay vs. Blitz U.S.A., Inc., et al.; Civil Action No. 3:10cv429-TSL-MTP; In the United States District Court, Southern District of Mississippi, Jackson Division*

3. The discovery deadline for the *Kornegay* matter is December 14, 2012, and the deadline for disclosure of defense experts is December 7, 2012.

4. As such, several depositions of both fact and expert witnesses have been set for the week of December 10, 2012, with many of those days having depositions set on a double or even triple track.

5. Additionally, Wal-Mart's counsel is set to be in mediation on an unrelated matter on December 17 and 18, 2012.

6. Therefore, counsel for Wal-Mart is in a scheduling quandary and asks this court to continue the December 11, 2012 Scheduling Conference.

7. If the Court is inclined to grant this motion, counsel for Wal-Mart will be available for a Scheduling Conference on or after December 19, 2012.<sup>1</sup>

## **CONCLUSION**

For the foregoing reasons, Wal-Mart respectfully requests that the Court grant its motion and continue the Scheduling Conference to a date on or after

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<sup>1</sup> Plaintiffs' counsel is available on December 20 or 21, 2012 or on or after January 4, 2013.

December 20, 2012.

This the 3<sup>rd</sup> day of December, 2012.

Respectfully submitted,  
WAL-MART STORES, INC.

BY: /s/ Stacey L. Strain  
STACEY L. STRAIN (ASB-1733T77S)

OF COUNSEL:

STACEY L. STRAIN (ASB-1733T77S)  
HUBBARD, MITCHELL, WILLIAMS & STRAIN, PLLC  
1062 Highland Colony Parkway, Suite 222  
Ridgeland, Mississippi 39157  
Post Office Box 13309  
Jackson, Mississippi 39236  
Telephone: 601-707-3533  
Facsimile: 601-898-2726  
strain@hubbardmitchell.com

**CERTIFICATE OF SERVICE**

I, Stacey L. Strain, as attorney for Defendant Wal-Mart Stores, Inc. do hereby certify that I have this day served a true and correct copy of the above and foregoing by ECF filing upon:

Glenda G. Cochran  
Cochran & Associates  
310 North 21<sup>st</sup> Street North, Suite 500  
Birmingham, Alabama 35203  
gc@glendacochran.com  
Attorney for the Plaintiffs

Larry B. Childs  
Brian J. Malcom  
1901 Sixth Avenue N., Suite 1400  
Birmingham, Alabama 35203  
larry.childs@wallerlaw.com  
brian.malcom@wallerlaw.com  
Attorneys for the Kinderhook Defendants

Timothy P. Harkness  
Pamila Gudkov  
601 Lexington Avenue  
New York, New York 10022  
timothy.harkness@freshfields.com  
mila.gudkov@freshfields.com  
Attorneys for the Kinderhook Defendants

This the 3<sup>rd</sup> day of December, 2012.

/s/ Stacey L. Strain  
STACEY L. STRAIN